



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 04887-00
12 October 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: LCDR [REDACTED] CEC, USNR [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 11 Jul 00 w/attachments
(2) PERS-86 memo undtd
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing his failures of selection for promotion before the Fiscal Year (FY) 96, 97, 98, 99, 00 and 01 Naval Reserve Staff Commander Selection Boards, so as to be considered by the selection board next convened to consider officers of his category for promotion to commander as an officer who has not failed of selection for promotion to that grade.

2. The Board, consisting of Messrs. Bishop, Kastner and Swarens, reviewed Petitioner's allegations of error and injustice on 4 October 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the Navy Personnel Command (NPC) office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that his request to remove his FY 96 through 00 failures of selection for promotion should be approved. They did not expressly address his FY 01 failure of selection.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the requested relief. They find enclosure (2), which expressly recommends removing Petitioner's FY 96 through 01 failures of selection for promotion, to be equally applicable as a basis to remove his FY 01 failure of selection as well. In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to commander as an officer who has not failed of selection for promotion to that grade.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-86

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
LIEUTENANT COMMANDER [REDACTED]

Encl: (1) BCNR File 04887-00 w/Service Record

1. We are returning enclosure (1) with the recommendation that Lieutenant Commander [REDACTED] request for removal of five failures of selection be approved.

2. Lieutenant Commander [REDACTED] lived and worked in the Philippines from 1989 to 1997. During this period his ability to participate in the reserve program was limited to the completion of correspondence courses. As a result he failed to select to commander in fiscal year 1996 through fiscal year 2000. Since his return to the United States in 1997 he has been an active member of the reserve community drilling in a Volunteer Training Unit, and performing in an outstanding manner.

3. Based on Lieutenant Commander [REDACTED] limited ability to participate in a reserve program while overseas and his exemplary record since returning in 1997 I recommend removal of the five failures of selection from 1996 through 2000.

[REDACTED]

Director, Reserve Officer
Promotions, Appointments, and
Enlisted Advancement Division

PERS-86 MEMO UNDTD